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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Australia, Austria, Belgium, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and recalling the International Covenants on Human Rights[2] and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 60/233 of 23 December 2005, those of the Commission on Human Rights, and the conclusions of the International Labour Conference of June 2006,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women and peace and security, resolutions 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict and resolution 1612 (2005) of 26 July 2005 on children in armed conflict, and the reports of the Secretary-General on children and armed conflict,[3]

[1] Resolution 217 A (III).
[2] Resolution 2200 A (XXI), annex.
[3] A/59/695-S/2005/72.

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Recognizing that respect for human rights, the rule of law, democracy and good governance are essential to achieving sustainable development and economic growth, and affirming that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

1. *Welcomes*:

(a) The reports of the Special Rapporteur on the situation of human rights in Myanmar[4] and the reports of the Secretary-General;[5]

(b) The personal engagement and statements of the Secretary-General with regard to the situation of Myanmar;

(c) The visit of the Under-Secretary-General for Political Affairs to Myanmar in May 2006 and his second scheduled visit in the near future;

(d) The efforts of the United Nations and other international humanitarian organizations to deliver urgently needed humanitarian assistance to the most vulnerable people in Myanmar;

(e) The establishment by the Government of Myanmar of a committee for the prevention of military recruitment of underage soldiers and the adoption in November 2004 of an outline plan of action to address the issues of underage recruitment and child soldiers, and the declared willingness of the Government to cooperate with the United Nations and other international organizations to address these issues;

(f) The recent submission by the Government of replies to a number of official communications by the United Nations special procedures on human rights;

(g) The initial measures to combat impunity concerning forced labour, including the six-month moratorium on arrests of individuals who report forced labour and the release of two prominent detainees;

(h) The launching of the Three Disease Fund aiming to tackle the severe problems of HIV/AIDS, tuberculosis and malaria in Myanmar;

(i) The Security Council discussion on the situation in Myanmar on 29 September 2006;

2. *Expresses grave concern* at:

(a) The ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar, as described in resolution 60/233 and previous resolutions of the General Assembly and the Commission on Human Rights, as well as the reports of the Special Rapporteur and of the International Labour Organization, including discrimination and violations suffered by persons belonging to ethnic nationalities of Myanmar, including extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces;

[4] E/CN.4/2006/34 and A/61/369.

[5] E/CN.4/2006/117 and A/61/504.

the continuing use of torture, deaths in custody, political arrests and continuing imprisonment and other detention; the continuing recruitment and use of child soldiers and the use of landmines; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; wide disrespect for the rule of law; and the confiscation of arable land, crops, livestock and other possessions;

(b) The prevailing culture of impunity, including lack of investigations into cases of serious violations of human rights;

(c) The attacks by military forces on villages in Kayin State and other ethnic states in Myanmar, leading to extensive forced displacements and serious violations of the human rights of the affected populations;

(d) The situation of a large number of internally displaced persons and the flow of refugees to neighbouring countries;

(e) The continued severe restrictions on activities of the National League for Democracy and other political parties, and the consistent harassment of their members, as well as of persons belonging to ethnic nationalities and of student leaders, including the extension of the house arrest of the General Secretary of the National League for Democracy, Aung San Suu Kyi, and her deputy, Tin Oo;

(f) The absence of progress towards genuine democratic reform, including the measures hindering representatives of the National League for Democracy and other political parties from participating in an effective and meaningful manner in the National Convention;

(g) The fact that the United Nations Special Rapporteur on the situation of human rights in Myanmar and the former Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for almost three years, despite repeated requests;

(h) The continuing denial of the freedom of human rights defenders to pursue their activities;

3. *Strongly calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights and fundamental freedoms in Myanmar, to fully implement the recommendations by the Special Rapporteur, the General Assembly, the Commission on Human Rights, the International Labour Organization and other United Nations bodies, aimed at ensuring full respect for all human rights and fundamental freedoms in Myanmar, and to allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

(b) To take urgent measures to put an end to the military operations targeting civilians in the ethnic areas, and the associated human rights and humanitarian law violations against persons belonging to ethnic nationalities, including widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, and to facilitate a fact-finding mission comprising representatives of relevant United Nations agencies to help identify measures to alleviate the humanitarian and human rights consequences of the conflict in Karen State and other ethnic states in Myanmar;

(c) To put an immediate end to the continuing recruitment and use of child soldiers, to intensify measures to ensure the protection of children affected by armed conflict, to fully implement the 2004 Action Plan, including by intensifying cooperation with the United Nations agencies, in particular the United Nations Children's Fund, and to sign the Optional Protocols to the Convention on the Rights of the Child;

(d) To end the systematic forced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(e) To end impunity and to this end:

(i) To investigate and bring to justice any perpetrators of human rights violations, including members of the military and other government agents in all circumstances;

(ii) To facilitate a genuinely independent investigation of continuing reports of sexual violence, in particular against women belonging to ethnic nationalities, and other abuse of civilians carried out by members of the armed forces in Shan, Karen, Mon and other states;

(iii) To facilitate a genuinely independent investigation into the attack perpetrated near Depayin on 30 May 2003;

(f) To release all political prisoners immediately and unconditionally, including National League for Democracy leaders Aung San Suu Kyi and Tin Oo, and Shan Nationalities League for Democracy leader Khun Htun Oo and other Shan leaders, as well as former student leaders Min Ko Naing, Ko Ko Gyi, Htay Kywe, Min Zeya and Pyone Cho; to desist from arresting and punishing persons for their peaceful political activities, and to ensure that discipline in prisons does not amount to torture or cruel, inhuman or degrading treatment or punishment, and that conditions of detention otherwise meet international standards, and include the possibility of visiting any detainee, including Aung San Suu Kyi, and to investigate cases of deaths in custody;

(g) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including for a free and independent media, and to ensure unhindered access to information for the people of Myanmar;

(h) To urgently resolve the serious issues identified by the International Labour Organization concerning compliance with international labour standards, including to give clear assurances that no action will be taken against persons lodging complaints of forced labour, to resolve outstanding allegations of forced labour, to establish a credible mechanism for dealing with individual complaints on forced labour, to respect the International Labour Organization presence in Myanmar and strengthen it when necessary and ensure the safety, security and freedom of movement of the International Labour Organization liaison officer;

(i) To cooperate fully with the Special Rapporteur, including by granting him full, free and unimpeded access to Myanmar, and with other United Nations human rights mechanisms, and to ensure that no person cooperating with the Special

Rapporteur or any international organization is subjected to any form of intimidation, harassment or punishment;

(j) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with those organizations so as to ensure that humanitarian assistance is delivered in accordance with humanitarian principles and reaches the most vulnerable groups of the population in accordance with international law, including applicable international humanitarian law;

(k) To continue to take action to fight the HIV/AIDS epidemic, tuberculosis and malaria;

4. *Calls upon* the Government of Myanmar:

(a) To permit all political representatives and representatives of ethnic nationalities to participate fully in the political transitional process without restrictions, and, to this end, resume, without further delay, dialogue with all political actors, including the National League for Democracy and representatives of ethnic nationalities, to complete the drafting of the Constitution and to ensure that the drafting process responds to the concerns of the ethnic nationalities and to set a clear timetable for the transition to democracy;

(b) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic nationalities in Myanmar, and to allow the full participation of representatives of all political parties and representatives of ethnic nationalities in an inclusive and credible process of national reconciliation;

(c) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

5. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and the people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable his Special Envoy, once appointed, and the Special Rapporteur to discharge their mandates fully and effectively;

(c) To report to the General Assembly at its sixty-second session on the progress made in the implementation of the present resolution;

6. *Decides* to continue the consideration of the question at its sixty-second session, on the basis of the report of the Secretary-General and the interim report of the Special Rapporteur.